IN THE HIGH COURT OR UTTARAKHAND
AT NAINITAL

Writ Petition No. 422 (SS) of 2007

Gaina lal,
Sri Chchandiadu,
Presently posted as Junior as Junior Assistant,
District – Economic & Statistical Office,
Uttrarkashi,
District – Uttarkashi. **.....Petitioner.**

Versus

1. State of Uttarakhand through Secretray, Economics and Statistical Department / Planning, Dehradun.
2. Director, Economics & Statistical Department, Uttarakhand, Dehradun.
3. Deputy Director, Economics & Statistical Department, Garhwal Mandal, Pauri.

.....Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Dinesh Gahatori, learned counsel for the petitioner and Sri H.M. Raturi, leaned standing counsel for State of Uttarakhand on behalf of respondents.

By means of this wit petition, the petitioner has prayed for the following reliefs:

a. *Issue a writ order or direction in the nature of Certiorari calling for record and quashing the order dated 15.06.2005 passed by respondent no. 2 contained Annexure No. 7 reverting the petitioner from Senior Assistant to Junior Clerk & order dated 28.11.2006 passed by appellate authority.*

b. *issue a writ, order or direction, which this Hon'ble court may deem fit and proper in the circumstances of the case*

c. award the costs of the petitioner to the petitioner.

Vide order dated 15.06.2005 Director, Economics & Statistical Department, Uttarakhand, Dehradun i.e. respondent no. 2 awarded punishment to the petitioner and reverted the petitioner from the post of Senior Assistant to Junior Assistant. This order was passed by respondent no. 2 on the basis of report submitted by Inquiry Officer. Inquiry Officer after holding inquiry found that petitioner is guilty of all the charges levelled against him. Aggrieved with this order petitioner preferred appeal before Secretary, Economics & Statistical Department / Planning, Uttarakhand, Dehradun. The said appeal was dismissed by the Secretary, Economics & Statistical Department / Planning, Uttarakhand, Dehradun on 28.11.2006.

The main ground of attack of the petitioner challenging the aforesaid orders is that copy of the inquiry report was not furnished to the petitioner and he was not given opportunity to represent himself against inquiry report. From perusal of impugned order, it transpires that copy of the inquiry report was not furnished to the petitioner and opportunity to represent against the finding recorded by the Inquiry Officer was not afforded to the petitioner.

Since the charges levelled against the petitioner have been proved by the Inquiry Officer and all the charges are serious in nature, relating to misappropriation of Government money I found it just and proper to direct the Disciplinary Authority i.e. respondent no. 2 to furnish the copy of the Inquiry Report along with show cause notice why he should not be punished and after affording opportunity, thereafter, respondent no. 2 may pass fresh order.

For the reasons recorded above, writ petition is allowed. Order dated 15.06.2005 and 28.11.2006 passed by respondents no. 2 and 1 respectively are quashed. Respondent no. 2 shall pass fresh order after affording opportunity to the petitioner and furnishing the copy of inquiry report to the petitioner.

Stay application is disposed of accordingly. No order as to costs.

(M.M. Ghildiyal, J)

June 14, 2007
SKSharma